

Austin & Rogers, P.A.

ATTORNEYS AND COUNSELORS AT LAW

WILLIAM FREDERICK AUSTIN
(1930-2016)

TIMOTHY F. ROGERS
RAYMON E. LARK, JR.
RICHARD L. WHITT
EDWARD L. EUBANKS
W. MICHAEL DUNCAN*

COLUMBIA OFFICE
CONGAREE BUILDING
508 HAMPTON STREET, SUITE 203
POST OFFICE BOX 11716 (29211)
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 256-4000
FACSIMILE: (803) 252-3679
WWW.AUSTINROGERSPA.COM

OF COUNSEL:
JEFFERSON D. GRIFFITH, III

* ALSO ADMITTED IN N.C.

May 17, 2019

VIA, ELECTRONIC FILING

The Honorable Jocelyn Boyd,
Chief Clerk,
The Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, South Carolina 29210

Re: • **Docket No. 2017-281-E**

Ms. Boyd:

The undersigned represents the Complainants, in the above-referenced Docket. Please reference this Commission's Directive Order No. 2019-322, dated May 1, 2019. Complainants, through counsel, submit this Report Regarding Status of Discovery (the "Report") and state as follows:

1. As discussed in the Report filed May 16, 2019, by Duke Energy Carolinas, LLC and Duke Energy Progress, LLC (collectively, "Duke"), on May 9, 2019, the South Carolina General Assembly passed the South Carolina Energy Freedom Act (H.3659), which requires Duke to offer Power Purchase Agreements ("PPAs") with avoided cost rates fixed "for a duration of ten years" to small power producers, potentially including the Complainants. However, there are some limitations on Duke's obligations under the H.3659, and the Act further provides that this provision "is not intended, and shall not be construed, to abrogate small power producers' rights under PURPA that existed prior to the effective date of the act." Complainants are therefore considering whether the rights provided H. 3659 are sufficient to address their concerns about Duke's refusal to offer PURPA-compliant PPAs until compelled to do so by the General Assembly.

Ltr. to Boyd – Docket 2017-281-E
May 17, 2019
Page 2 of 2

2. Complainants maintain that the grievances raised by Duke in Duke's counsel's correspondence of April 30, 2019, are generally unfounded and are intended to further delay the course of discovery. However, because of the likely passage of H. 3659 and the possible impact on this case, Complainants have not provided a substantive response to these complaints. Complainants did contact Duke after passage of H. 3569 to indicate that they were considering the impacts of the new Law and would contact Duke about the possible resolution of this case after those discussions had concluded. (Duke's statement in its report that "the Companies have not received any response from Complainants, in writing or otherwise" to the April 30, 2019 correspondence is therefore factually incorrect.)
3. In light of the above, Complainants agree with Duke's assessment that at this time there is no need for additional discovery to be conducted. If this case moves forward the parties will need to revisit the issue of discovery.

All parties of record in Docket 2017-281-E have been served. Please advise if you or the Commission require any additional information, and this correspondence is,

Respectfully Submitted,
AUSTIN & ROGERS, P.A.

/s/Richard L. Whitt,
Richard L. Whitt,
As Counsel for the South Carolina
Solar Business Alliance, Inc.

RLW/cas

cc: All parties of record in Docket 2017-281-E, *via electronic mail.*